

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

CAROL O'BRIEN,

Plaintiff,

v.

US 1 LOGISTICS LLC, US1 INDUSTRIES INC.
and SHANNON MOISE,

Defendants.

Case No. 4:18-cv-2021

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT Defendants US 1 LOGISTICS, LLC and US 1 INDUSTRIES, INC. (hereinafter also collectively referred to as "Defendants"), pursuant to 28 U.S.C. §§ 1441, 1446, and invoking this Court's jurisdiction pursuant to 28 U.S.C. § 1332, hereby remove this action, *Carol O'Brien v. US 1 Logistics LLC, US 1 Industries Inc. and Shannon Moise*, Case No. 1822-CC11463, 22nd Judicial Circuit (St. Louis City, Missouri), to the United States District Court for the Eastern District of Missouri. In support of removal, Defendants state as follows:

Background Facts

1. On October 19, 2018, Plaintiff filed a civil action against the above-named defendants in the Circuit Court of the City of St. Louis, 22nd Judicial Circuit, State of Missouri. A copy of the Petition is attached hereto as Exhibit A.

2. In her Petition, Plaintiff alleges that she sustained "severe" personal injuries on October 21, 2013, as a result of a collision between the vehicle operated by Plaintiff and a tractor-trailer operated by Defendant Shannon Moise on Interstate 64 in the City of St. Louis, Missouri. Pet. ¶¶ 7-10.

3. Plaintiff further claims that at the time of the incident, Defendant Moise was in the employ of "US 1 Logistics LLC and/or US 1 Industries Inc." Pet. ¶ 16.

4. Plaintiff asserts causes of action for Negligence (Counts I and II), Negligent Entrustment (Count III), Negligent Hiring and Retention (Count IV) and "Agency" (Count V).

5. US 1 Logistics, LLC is a subsidiary of US 1 Industries, Inc. Pet. ¶ 2.

6. A copy of the Summons directed to US 1 Industries, Inc. and Petition were served upon an individual at 938 North 59th Street, East St. Louis, Illinois, which is a dispatch office for US 1 Logistics, LLC, on November 1, 2018. See Memo of Filing of Affidavit of Service attached hereto as Exhibit B.

7. Upon information and belief, and a review of the electronic docket on the Missouri Case.net system, Defendant Shannon Moise has not been served as of the date of this filing.

Jurisdiction and Basis for Removal

8. This Notice of Removal is being filed within thirty (30) days after service of a copy of the original Petition, and, therefore, is timely filed pursuant to 28 U.S.C. § 1446(b) and *Murphy Bros. Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999). The time for Defendants to answer, move, or otherwise plead with respect to Plaintiff's Petition has not yet expired.

9. This Court has jurisdiction over this matter under 28 U.S.C. §1332, in that there is absolute diversity amongst the parties – the plaintiff is not a citizen of the same state as any of the defendants – and the amount in controversy exceeds \$75,000.00.

I. There is Absolute Diversity of Citizenship Among the Parties.

10. Plaintiff Carol O'Brien is a resident of Highland, Illinois. Pet. ¶ 1.

11. US 1 Logistics, LLC is an Indiana limited liability company whose members reside in the States of Florida and Indiana.

12. US 1 Industries, Inc. is an Indiana corporation with its principal place of business in Valparaiso, Indiana.

13. Upon information and belief, Shannon Moise is a citizen of the State of Missouri.

14. Therefore, complete diversity exists between Plaintiff and all Defendants as required for removal under 28 U.S.C. § 1332(a).

II. The Amount in Controversy is in Excess of \$75,000

15. To have jurisdiction of under 28 U.S.C. §1332, the amount in controversy must be in excess of \$75,000.00, exclusive of interest and costs.

16. Plaintiff has not stated a specific amount of damages in her Petition, but the allegations and demands set forth in Plaintiff's Petition demonstrate that the amount in controversy exceeds \$75,000. Plaintiff alleges only that she seeks recovery in an amount in excess of the \$25,000 threshold for Missouri Circuit Court jurisdiction.

17. In her Petition, Plaintiff alleges that she suffered "severe injuries" as a result of the incident at issue, including injuries to her left shoulder, neck, head and back; pain and suffering; past, present and future medical treatment; property damage to her vehicle; and lost wages.

18. Based on the nature and extent of the injuries and damages alleged in Plaintiff's Petition, it is reasonable for the Court to determine that the amount in controversy exceeds \$75,000 as required by 28 U.S.C. § 1332(a). See 28 U.S.C. § 1446(c)(2).

Other Requirements

19. Pursuant to 28 U.S.C. § 1441(a), 1446(a), this Court is the appropriate place to file

this Notice of Removal because this Court is the United States District Court for the district division in which the state court action is pending.

20. True and correct copies of all process, pleadings and orders served upon Defendants are being filed contemporaneously with this Notice of Removal. See Exhibit C.

21. Written notice hereof is being provided to Plaintiff and a copy of this Notice of Removal is being filed contemporaneously with the Circuit Court of St. Louis City, Missouri, in accordance with 28 U.S.C. § 1446(d). A copy of the Notice to State Court of Filing of Notice of Removal filed with the Circuit Court of St. Louis City, Missouri, is attached hereto as Exhibit D.

WHEREFORE, Defendants US 1 Logistics, LLC and US 1 Industries, Inc. respectfully request that this action be removed as set forth above.

Demand for Jury Trial

US 1 Logistics, LLC and US 1 Industries, Inc. hereby demand a trial jury on all counts of the above-entitled action.

Dated: December 3, 2018

Respectfully submitted,

**US 1 LOGISTICS, LLC AND
US 1 INDUSTRIES, INC., Defendants**

BY: /s/ Jennifer L. Maloney

HEYL, ROYSTER, VOELKER & ALLEN
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all counsel of record on December 3, 2018, via the Court's CM/ECF system.

/s/Jennifer L. Maloney

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